

Department of Navy



Money Part 2

(FAR Part 22)



Goals & Objectives

- Goal: Understand the application of labor laws in federal contracts
 - Objective 1: Determining price adjustment(s)
 - Exercise



Price Adjustments

- Price Adjustment triggered by incorporation of updated WD as required in FAR 22.1007
- Resources:
 - <https://acquisition.navy.mil/rda/content/view/full/3736>
 - [Service Contract Act Price Adjustments - Desk Guide](#)
 - <http://www.wdol.gov/pact/pact-user-guide.pdf>



SCA Price Adjustment



- FAR 52.222-43 Fair Labor Standards Act & SCA – Price Adjustment (Multiple Year & Option Contracts) (Sep 2009)
- Area prevailing WD & contracts subject to CBA & conformed rates
- Contractor warrants that the prices do not contain contingencies to cover costs allowed by clause
 - Prices were not escalated in the option years



SCA Price Adjustment



FAR 52.222-43:

(d) The contract price or contract unit prices will be adjusted to reflect the contractors **actual** increase or decrease in applicable wages and fringe benefits to the extent that the increase is made to comply with or the decrease is voluntarily made by the contractor as a result of:

(1) The Department of Labor wage determination applicable on the anniversary date of the multiple year contract, or at the beginning of the renewal option period.

The contractor must provide actual payroll data.

Contracting Officer calculates the difference between the amount paid by the contractor and the new wage determination

The period covered by the adjustment begins with the date the new WD is required by the terms of the new contract-
Not date on WD



SCA Price Adjustments



For example, the prior year WD required a minimum wage rate of \$4.00 per hour. The Contractor chose to pay \$4.10. The new WD increases the minimum rate to \$4.50 per hour. Even if the Contractor voluntarily increases the rate to \$4.75 per hour, the allowable price adjustment is \$.40 per hour

If the contractor chooses to pay more than the WD Rates, the adjustment is based on what the contractor **ACTUALLY** paid-NOT on the previous WD rates

Previous WD Hourly rate:
\$4.00

Contractor actual: \$4.10

NEW WD hourly rate \$4.50

Adjustment \$.40/hr



SCA Price Adjustments



What is allowed in the SCA labor price adjustment under FAR 52.222-43?

(c) Any adjustment will be limited to increases or decreases in wages and fringe benefits and the accompanying increases in social security and unemployment taxes and workers compensation but shall **not** otherwise include any amounts for **general and administrative costs, overhead or profit**

Certain tax increases must “accompany” (be caused by) the WD increase.

The clause provides no relief from tax increases from other causes of tax increases on a contractors actual payroll



Price Adjustments-CBA



- FAR 52.222-43 price adjustments typically more complex when using CBA Vs. “standard” WD
 - Possibility of additional (complicated) fringe benefits
 - May include Shift/lead differentials
 - Multiple certification increases
- Principles remain the same
 - Adjustment limited to actual increase between:
 - 5/27/17 ➤ What the contractor actually paid in previous



Price Adjustments-Conformed



- When a new classification is added-conformed
- Average percent of increase or decrease for all classes used on the contract [FAR 52.222-41(c)(iv)(B)]
 - $A\% + B\% + C\% = X$, divided by 3 =
 - The average percent of increase
 - Raise the conformed rates by this percent



An Aside on Overtime



- Federal wage laws require $\frac{1}{2}$ time premium for hours worked over 40 in the work week only
- Contractors are not required to pay a premium for work performed after the regular shift, weekends, holidays
- Contractors control individual employees work hours
- Incurring the legally required overtime is a choice of contractor management
- Then-
 - Be careful about the contract terms for payment to the contractor for work outside the normal work schedule, and
- Contract price adjustment is not calculated at the overtime premium rate



Check on Learning

Price adjustment
exercise:





In Conclusion

Thank you!

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